

APPEAL NO. 022718  
FILED DECEMBER 12, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 17, 2002. The hearing officer determined that the appellant's (claimant) \_\_\_\_\_, compensable injury did not include his cervical area. The claimant has appealed this determination as against the great weight and preponderance of the evidence. The respondent (self-insured) responds that the evidence did not establish a causal link between the 1997 injury and later-manifested cervical problems.

DECISION

We affirm the hearing officer's decision.

The claimant was pushed by an unruly student, landing on his buttocks on \_\_\_\_\_. He did not strike his neck, but his theory of injury was that the contact somehow "jammed" his entire spine. While the medical evidence indicates some complaints of pain including his neck and areas other than the lumbar spine, a fair reading of the years of medical treatment shows that the injury was determined to be to the lumbar spine (for which the claimant had surgery). The claimant's impairment rating (IR) from a designated doctor also was given for a lumbar injury. There was no evidence that at this time the claimant affirmatively asserted that the IR was not accurate because he had also injured his neck. At least one earlier medical record that comments on neck pain also notes that it is not part of the work-related injury.

It appears that sometime in 2001, the claimant was evaluated by a doctor who concluded that his "main problem" was in his neck. The claimant contended that although he had complained about his neck since the accident, this problem was essentially ignored for active treatment until 2001.

Although the hearing officer found that the claimant had failed to "dispute" the extent of his injury, we cannot agree with the claimant that the hearing officer has applied a waiver theory not found in the statute. We believe that the hearing officer may, in assessing whether the evidence shows a causal connection between a compensable injury and a later-diagnosed condition, consider the course of medical treatment and whether an affirmative assertion of further injury was made early in the course of the injury and prior to certification of an IR. He may reject as implausible the likelihood that treating doctors would affirmatively decline to treat for years a condition thought to be part of that injury. Chronology alone does not establish a causal connection between an accident and a later-diagnosed injury. Texas Workers' Compensation Commission Appeal No. 94231, decided April 8, 1994. The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.).

An appeals-level body is not a fact finder, and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied); American Motorists Insurance Co. v. Volentine, 867 S.W.2d 170 (Tex. App.-Beaumont 1993, no writ). The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We cannot agree that this is the case here, and affirm the decision and order.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR  
STATE OFFICE OF RISK MANAGEMENT  
300 W. 15TH STREET  
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR  
AUSTIN, TEXAS 78701.**

For service by mail the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR  
STATE OFFICE OF RISK MANAGEMENT  
P.O. BOX 13777  
AUSTIN, TEXAS 78711-3777.**

---

Susan M. Kelley  
Appeals Judge

CONCUR:

---

Elaine M. Chaney  
Appeals Judge

---

Thomas A. Knapp  
Appeals Judge